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CBS STUDIOS INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DELRAY RICHARDSON p/k/a DELRAY
d/b/a DEL FUNK BOY MUSIC, an
individual, and STERLING A.
SYNDER d/b/a/ ZION RECORDS,
an individual,

Plaintiffs,

vs.

CBS STUDIOS INC., d/b/a CBS
TELEVISION DISTRIBUTION, a division
of CBS CORPORATION, a Delaware
corporation,

Defendants.

Case No. CV12-7925 ABC (SHx)
Honorable Audrey B. Collins

NOTICE AND MOTION FOR
SUMMARY JUDGMENT; IN THE
ALTERNATIVE, FOR PARTIAL
SUMMARY JUDGMENT ON THE ISSUE
OF PLAINTIFF'S DAMAGES

Date: September 30, 2013
Time: 10:00 a.m.
Ctrm: 680
Roybal Building

TO THE COURT, THE PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on September 30, 2013, at 10:00
a.m., or as soon thereafter as counsel may be heard in Courtroom
680 of the Roybal Federal Courthouse, located at 255 East Temple
St., Los Angeles, California 90006, Defendant CBS STUDIOS INC.

1 ("CBS") will, and hereby does, move for summary judgment or in
2 the alternative for partial summary judgment declaring that
3 Plaintiffs can recover no damages for the alleged infringements.

4 The Motion for Summary Judgment is made with respect to the
5 first three Causes of Action for Copyright Infringement on the
6 grounds that:

7 1. All of the musical works allegedly infringed by CBS
8 were properly licensed by their co-author and co-owner of the
9 copyrights therein, Jean Yves Ducornet, through his publishing
10 administrator PEN Music Group, Inc. Accordingly, CBS cannot be
11 liable for copyright infringement.¹

12 2. The copyrights which Plaintiff Delray Richardson claims
13 have been infringed are not validly proven because he has not
14 produced the copies of the musical works deposited with the
15 Copyright Office to obtain his copyright registrations.

16 The alternative Motion For Partial Summary Judgment is made
17 with respect to the first three causes of action for copyright
18 infringement and based upon the grounds that:

19 1. Plaintiffs have no proof of actual damages;

20 2. Plaintiffs are not entitled to Defendant's profits
21 because they have no proof of any such profits, which would in
22 any event be too indirect and speculative; and

23 3. Plaintiffs are not entitled to statutory damages
24

25 ¹ The remaining causes of action were dismissed when this
26 Court granted CBS's Motion to Dismiss Counts IV through VIII.
Docket No. 10.

1 because Plaintiffs' copyrights were registered years after the
2 first alleged infringement of each musical work.

3 This motion is based on this Notice, the attached Memorandum
4 of Points and Authorities, the Statement of Undisputed Facts, the
5 Declaration of Jean-Yves Ducornet, the Declaration of Michael
6 Eames, the Declaration of Carl Benedetti, the Declaration of
7 Robert S. Besser, selected portions of the Deposition of Delray
8 Richardson (with cited material highlighted), the complete Court
9 files and records of this case and such other evidence and/or
10 argument as may be presented prior to the hearing.

11 This motion is made following the conferences of counsel for
12 CBS and Delray Richardson and Sterling Snyder, *in pro per*,
13 pursuant to L.R. 7-3 which took place continuously after the
14 first scheduling conference.

15 Dated: August 26, 2013

16 LAW OFFICES OF ROBERT S. BESSER

17 By: /s/ Robert S. Besser
18 ROBERT S. BESSER
19 Attorneys for Defendant
CBS STUDIOS INC.

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